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EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

प्राधिकार से प्रकाशित
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नई दिल्ली, मंगलवार, नवम्बर 27, 1990/अग्रहायण 6, 1912

No 692] NEW DELHI, TUESDAY, NOVEMBER 27, 1990/AGRAHAYANA 6, 1912

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

गृह मंत्रालय

नई दिल्ली, 27 नवम्बर, 1990

अधिसूचना

का. आ. 909 (ई).—केन्द्रीय सरकार ने विधि
विरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967
(1967 का 37) की धारा 3 की उपधारा (1) द्वारा
प्रदत्त शक्तियों का प्रयोग करते हुए तारीख 22 मई, 1990
को "दल ब्याजसा" को विधि विरुद्ध संगम घोषित किया था;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 5 की
उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए,
तारीख 13 जून, 1990 को विधि विरुद्ध क्रियाकलाप
(निवारण) अधिकरण गठित किया था जिसमें कर्नाटक उच्च
न्यायालय के न्यायाधीश, न्यायमूर्ति श्री एन. जी. वेंकटाचला
थे;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की
उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए,

उक्त अधिसूचना को इस वाद का न्यायनिर्णय करने के प्रयोज-
नार्थ कि उक्त संगम को विधि विरुद्ध घोषित करने के लिए
पर्याप्त कारण हैं या नहीं, 19 जून 1990 को उक्त अधि-
करण को निर्दिष्ट किया था;

और उक्त अधिकरण ने, अधिनियम की धारा 4 की
उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए,
23 प्रक्तूबर, 1990 को आदेश पारित किया;

अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की
उपधारा (4) के अनुसरण में, उक्त अधिकरण का उक्त
आदेश प्रकाशित करती है, अर्थात् :—

आदेश

विधि विरुद्ध (निवारण) अधिकरण के समक्ष (अंग्रेजी
में प्रकाशित अधिसूचना देखिये)

[सं.—17017/40/90—आई. एस. (डी-7)]

हरं महान कैरे, उप सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 27th November, 1990

S.O. 909(E).—Whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1957 (37 of 1957) declared on the 2nd May, 1990 the 'Dal Khalsa' to be an unlawful association;

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, constituted on the 13th June, 1990 the Unlawful Activities (Prevention) Tribunal consisting of Shri Justice N.G. Venkatachala, Judge of the Karnataka High Court;

And whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, referred the said notification to the Tribunal on the 19th June, 1990 for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association as unlawful;

And whereas the said Tribunal in exercise of the powers conferred by sub-section (3) of section 4 of the Act made an order on the 23rd October, 1990;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said order of the said Tribunal, namely:—

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL KARNATAKA HIGH COURT BUILDINGS, BANGALORE

(CAMP : NEW DELHI)

PETITION NO. 1 OF 1990

UNION OF INDIA,

Ministry of

Home Affairs,

Home Affairs,

New Delhi.

Petitioner

(By Sri R. P. Bhardwal,
Standing Counsel for
the Central Government)

v.

DAL KHALSA,

Gurdwara Akal

Garh Sahib,

Sector 35,

Chandigarh.

... Respondent

ORDER

Notification S.O. 399(E) dated 22nd May, 1990 issued under sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967—'the Act', and referred to the Unlawful Activities (Prevention) Tribunal—'the Tribunal' constituted under sub-section (1) of Section 5 of the Act for adjudicating upon

the confirmability or otherwise of that Notification under Section 4 of the Act, is registered as a petition in the above number arraying therein the Union of India (Central Government), which has issued the Notification, as the petitioner and 'Dal Khalsa', which is declared as a unlawful association as the respondent.

2. After the said Notification was registered as a petition, as above the Tribunal directed its Registrar to issue notices to the respondent, its known office bearers and its members in general calling upon them to object to the declaration in the said Notification registered as the petition, by filing written statement/s of objections, if any, thereto and to appear in person or through any authorised representative in the enquiry proposed to be held by it (the Tribunal) on the petition (Notification) at Punjab Bhavan, Copernicus Marg, New Delhi, from day to day on all working days from 17-9-1990 at 10.00 A.M., for contesting the evidence to be adduced in support of the Notification or to adduce its own evidence against the Notification. The tribunal also directed issuance of such notices within three days from 18-7-1990 having recourse to various modes of service available, simultaneously. The notice so sent contained the Notification, by which the respondent was declared as an unlawful association, the name of the Judge who was constituted as the Tribunal for adjudicating upon the Notification, and the details of opportunity which were being afforded by the Tribunal to the respondent, its office bearers and its members for sending written objections to the Notification and for appearing in person or through their authorised agents at the enquiry proposed to be held thereon by the Tribunal to contest the Notification. That notice read thus:

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL KARNATAKA HIGH COURT BUILDINGS, BANGALORE

BETWEEN :

PETITION NO. 1 OF 1990,

UNION OF INDIA,

Ministry of

Home Affairs.

New Delhi,

by its Secretary.

Petitioner

AND :

Dal Khalsa,

Gurdwara Akal

Garh Sahib,

Sector 35,

Chandigarh.

Respondent

NOTICE

Hon'ble Mr. Justice Nanje Gowda Venkatachala, Judge, High Court of Karnataka, Bangalore, constituted as Unlawful Activities (Prevention) Tribunal, (the Tribunal), under Section 5 of the Unlawful Activities (Prevention) Act, 1967, is required to decide

whether or not there is sufficient cause for declaring 'Dal Khalsa', the respondent-Association, as unlawful as contained in the following Notification :

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 22nd May, 1990

S.O. 399(E).—Whereas the organisation known as the 'Dal Khalsa' :—

- (i) which had declared as its main objective the establishment of a complete autonomous 'Khalisa State' and in pursuance of its objective has been preaching secession and disruption of the territorial integrity of India through its activities ;
- (ii) whose office bearers and activists have extended support to the creation of 'Khalistan' by stressing the need for unity between Sikh militant groups fighting for Khalistan, stepping up pro-Khalistan propaganda through foreign press, and Gurdwara platforms and warning against negotiations with the Government of India ;
- (iii) which formed an Action Committee of the pro-Khalistan Sikh militant groups to kill police officers and their informers ;
- (iv) whose activists have been holding demonstrations in which slogans like 'India quit Khalistan' were raised, holding meetings for providing more financial aid to the Sikh militants fighting for Khalistan in Punjab ;

And whereas the Central Government is of the opinion that for the reasons aforesaid, the Dal Khalsa is an unlawful association ;

And whereas the Central Government is further of the opinion that because of the activities of the Dal Khalsa, it is necessary to declare the Dal Khalsa to be unlawful with immediate effect ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the Dal Khalsa to be an unlawful association and directs, in exercise of the powers conferred by the proviso to sub-section (3) of that Section that this Notification shall, subject to any order that may be made under Section 4 of the said Act, have effect from the date of its publication in the Official Gazette."

(Published in the Gazette of India Extra-ordinary issue dated 2nd May 1990.)

2. The Tribunal, which has got the said Notification registered as Petition No. 1 of 1990, proposes to decide whether the aforesaid declaration contained in the Notification requires to be confirmed or rejected after affording full opportunity to the respondent Dal Khalsa, its office bearers and its members, of making a representation, if any against that declaration before the Tribunal by filing their statements of objections within 30 days from the date of service of this notice and of appearing in person or through

their authorised agents at the enquiry to be held in the matter at Punjab Bhavan, Copernicus Marg, New Delhi.

3. Wherefore, this notice is issued to the respondent—Dal Khalsa, its office bearers and its members, who may be interested in contesting the declaration contained in the aforesaid Notification, affording them an opportunity :—

- (i) to file their written statement[s] of objections to the declaration contained in the said Notification before the Registrar, Unlawful Activities (Prevention) Tribunal, Karnataka High Court Buildings, Bangalore-560 001, or to send to him, within 30 days from the date of service of this notice, for the same being placed before the Tribunal for its consideration ; and/or
- (ii) to appear in person or through their authorised agents at the said enquiry to be held by the Tribunal day to day on all working days commencing from Monday the 17th September 1990 at 10-00 A.M. on each day at Punjab Bhavan, Copernicus Marg, New Delhi, and contest the evidence to be adduced in support of the declaration in the said notification and/or adduce their own evidence against that declaration in the said notification.

Sd|—

REGISTRAR,

Unlawful Activities (Prevention) Tribunal
Karnataka High Court Buildings,
Bangalore."

Bangalore,

Dated 18th July, 1990.

3. As the Tribunal was enjoined under sub-section (3) of Section 4 of the Act to complete the enquiry to be held in the matter and render its order thereon after affording opportunity to the affected party of contesting the matter, as expeditiously as possible, and in any case, within a period of six months from the date of issuance of the Notification, the afore-stated steps had been taken to effect service of notice in the matter on the affected party the respondent, its office bearers and members.

4. At the enquiry of the Tribunal commenced on 17-9-1990, as notified, the Tribunal having found that the service of notice on the respondent and one of its office bearers was duly effected by some of the modes adopted for service, held that there was sufficient service of notice on the respondent. Despite wide publicity of the notice to the respondent given in Punjab based largely circulated English language and Punjabi language daily News Papers issues of the 9th and the 10th August 1990, no statement objecting to the Notification was sent or filed by the respondent or any person on its behalf. None appeared for the respondent or on its behalf at the enquiry of the Tribunal. This situation made the Tribunal to order enquiry on the petition (Notification) to proceed ex-parte. Thereafter, the Tribunal, by perusing the grounds supporting the declaration in the Notification under adjudication and the documents to which

had been sent to the Tribunal as forming the basis of such grounds and hearing the learned Counsel for the petitioner, settled the following issues, as arising for determination in the petition :—

“1. Is ‘Dal Khalsa’ the respondent, an association under clause (a) of Section 2 of the Unlawful Activities (Prevention) Act, 1967 (for short “the Act”) ?

2. (a) Is the declared main objective of the respondent the establishment of a complete autonomous ‘Khalisa State’? Is that objective an ‘unlawful activity’ under clause (f) Section 2 of the Act?

(b) Is the respondent, by its activities, preaching secession and disruption of territorial integrity of India? Are those activities ‘unlawful activities’ under clause (f) of Section 2 of the Act ?

Is the respondent extending support to the creation of ‘Khalistan’ through its office bearers and activists by activities—(a) of stressing the need for unity between Sikh militant groups fighting for Khalistan ; (b) of stepping up pro-Khalistan propaganda through foreign press and Gurdwara platforms ; and (c) of warning against negotiations with the Government of India? Are such activities ‘unlawful activity’ under clause (f) of Section 2 of the Act ?

4. Did the respondent form an Action Committee of pro-Khalistan Sikh militant groups to kill Police Officers and their informers? Is formation of such Action Committee ‘unlawful activity’ under clause (f) of Section 2 of the Act?

5. Did the respondent, through its activists (a) hold demonstrations in which slogans, like, ‘India quit Khalistan’ were raised; (b) hold meetings for providing more financial aid to Sikh militants fighting for Khalistan in Punjab ? Is holding of such demonstrations and meetings ‘unlawful activity’ under clause (f) of Section 2 of the Act ?

6. If answers to Issue Nos. 2 to 5, or any of them, are/is in the affirmative, does the respondent-association become an ‘unlawful association’ under clause (g) of Section 2 of the Act ?

7. If ‘Dal Khalsa’ is an ‘unlawful association’ under clause (g) of Section 2 of the Act, was it a sufficient cause for the Central Government to make the declaration by Notification under sub-section (1) of Section 3 of the Act and does that Notification call to be confirmed under sub-section (3) of Section 3 of the Act ?”

5. In the course of enquiry, documentary evidence is produced supporting the petition (Notification). Such evidence comprises of Exhibits P-1 to P-35. Witnesses, whose evidence is recorded in the course

of such enquiry as petitioner’s witnesses (P. Ws. 1 to 8) are officers of either the Government of Punjab or the Central Government.

6. As it would be necessary to refer to the relevant provisions of the Act, which bear on the issues before taking up examination of the documentary and oral evidence adduced respecting them, such provisions shall be referred to now.

It is Section 3 of the Act which empowers the Central Government to declare an association which is or has become an unlawful association by means of a Notification issued in the Official Gazette specifying the grounds supporting such declaration. That Section, however, requires confirmation of such declaration made in the Notification by an order of the Tribunal to be rendered according to Section 4 of the Act, for bringing it (declaration) into effect. The definition of ‘association’ in clause (a) of Section 2 of the Act envisages an ‘association’ which is a combination or body of individuals. No under clause (g) of Section 2 of the Act, any association—

(1) which has for its object—

- (a) any unlawful Activity; or
- (b) any activity which is punishable under Section 153A, I.P.C.; or
- (c) any activity which is punishable under Section 153B, I.P.C.; or

(2) which encourages or aids person :—

- (a) to undertake any unlawful activity; or
- (b) to undertake any activity punishable under Section 153A, I.P.C.; or
- (c) to undertake any activity punishable under Section 153B, I.P.C.; or

(3) whose members themselves—

- (a) undertake any unlawful activity; or
- (b) undertake any activity punishable under Section 153A, I.P.C.; or
- (c) undertake any activity punishable under Section 153B, I.P.C.

is an ‘Unlawful Association’.

Clause (f) of Section 2 of the Act, which envisages an ‘unlawful activity’ in relation to an individual or an association, refers to such ‘unlawful activity’ to mean any action taken by such individual or association—

- (i) which is intended or supports any claim, to bring about, on any ground whatsoever, the secession of a part of territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession ;
- (ii) which disclaims questions disrupts or is intended to disrupt the sovereignty or territory of India.

Since 'activity' punishable under Section 153-A of the Indian Penal Code has to be ascertained with reference to that Section, it is excerpted :

"153-A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

(1) Whoever—

- (a) by words, either spoken or written, or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or
- (b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility, or
- (c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity, for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both."

Again since 'activity' punishable under Section 153B of the Indian penal Code has to be ascertained with reference to that Section, it is excerpted :

"153-B. Imputations, assertions prejudicial to national integration.—(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—

- (a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial language or regional group or caste or community, bear the faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, consents, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial language or, regional group or caste or community, be denied or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community and such assertion counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1), in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine."

As found in clause (f) of Section 2 itself, the action taken by an individual or association may relate to committing an act by words, either spoken or written, or by signs or by visible representations or otherwise. Then, 'secession of a part of the territory of India', referred to in clause (f), includes admission of any claim of any foreign country to any such part as defined in clause (b) of sub-section (2). Further, 'secession of a part of the territory of India', referred to in clause (f), includes the assertion of any claim to determine whether such part would remain a part of the territory of India as defined in clause (c) of Section 2 of the Act.

7. Issues can now be taken up seriatim for determination and recording findings thereon, on the basis of the materials made available to the Tribunal, evidence-documentary and oral, produced at the enquiry before the Tribunal, Petitioner's written arguments and provisions of the Act, adverted to.

Re. Issue No. 1 :

Is 'Dal Khalsa'—the respondent, an association under clause (a) of Section 2 of the Act, is the issue. If 'Dal Khalsa' is an association, as envisaged in clause (a), question of declaring it as an unlawful association would arise and not otherwise. According to clause (a), an association comes into existence if there is a combination or body of persons. Therefore, to hold that 'Dal Khalsa' is an association, it must be a combination or body of persons. P.W. 4, Sri Pirthipal Singh, has produced a photo copy of the Constitution of 'Dal Khalsa' at Exhibit P-14. It is similar to Annexure-1 annexed to Exhibit P-27, the Resume of Dal Khalsa sent to the Tribunal along with the Notification under adjudication, which is

said to have weighed with the Central Government in issuing the Notification as spoken to by P.W. 8—Sri Ashok Bhatia, Joint Secretary to Government of India. That written Constitution reveals that “every Sikh child, old man, male, female and whosoever believe in the ideals of the Ten-Gurus and Shri Guru Granth Sahib and who is not a patit (Fallen sikh) and does not use wine and other intoxicants, may become a member of the Dal Khalsa”. It also reveals that the membership of Dal Khalsa is not only open to persons inside Punjab and India, but also outsiders. Dal Khalsa has come to be treated as an association in several notifications issued under Section 3(1) of the Act from time to time (Exhibits P-28 to P-31) and orders (Exhibits P-32 to P-35) made on each Notification by the respective Tribunal constituted to adjudicate upon each of such Notifications. Exhibit P-15A(ET), the English Translation of Exhibit P-15A, a letter in Punjabi published in ‘Sampark’ of July 1988 issue said to have been written by Gajinder Singh from Pakistan to his sister Smt. Kanwaljit Kaur spoken of by P.W. 5, Sri Ved Parkash Kapoor, Superintendent of Counter Terrorism at Chandigarh, discloses that Dal Khalsa, as an association, existed in July 1988 as it is stated therein that Dal Khalsa is determined and committed to the struggle for Khalistan. There are no materials whatsoever placed before the Tribunal by the respondent or any person on its behalf to the effect that Dal Khalsa is not a combination or body of persons which is existing as an association.

Hence, the Tribunal finds Dal Khalsa to be an association under clause (a) of Section 2 of the Act and records its finding on this issue in the affirmative.

Re. Issue No. 2(a) :

Is the declared main objective of Dal Khalsa—the respondent, the establishment of a complete autonomous ‘Khalsa State’ and is that objective an unlawful activity under clause (f) of Section 2 of the Act, is the issue. It is raised having regard to the former part of ground (i) given in the Notification in support of the declaration therein. Exhibit P-14 is the copy of the written Constitution of Dal Khalsa, as spoken of by P.W. 4, Sri Pirthipal Singh. Annexure-1 sent enclosed with Exhibit P-27, the Resume concerning Dal Khalsa along with the Notification, when the latter was referred for adjudication by the Tribunal, is a photo copy of Exhibit P-1 as spoken of by P.W. 8, Sri Ashok Bhatia. According to him, in issuing the Notification under adjudication, the matter contained in Annexure-1 has weighed with the Central Government. As seen from the copy of the objects’ clause in the written Constitution of Dal Khalsa, which is Exhibit P-14, “to establish Khalsa State with full sovereignty based upon Khalsa Principles” is the main objective of Dal Khalsa. An unlawful activity in clause (f) of Section 2 of the Act in relation to an association means any action taken by such association by words written intended to bring about on any ground whatsoever, the secession of a part of the territory of India from the Union and/or disrupt the sovereignty of territorial integrity of India. When Dal Khalsa, as written in its Constitution, has, for its main objective, ‘the establishment of a complete autonomous Khalsa State based on Khalsa

Principles’, it becomes an action taken by Dal Khalsa for bringing about the secession of a part of the territory of India from the Union and disrupt the sovereignty and territorial integrity of India. Consequently, such an objective has to be regarded as an unlawful activity in relation to Dal Khalsa association under clause (f) of Section 2 of the Act.

Hence, the Tribunal records its finding on the issue in the affirmative.

Re. Issue No. 2(b) :

Has Dal Khalsa—the respondent, in pursuance of its objective of forming ‘Khalsa State’, been preaching secession and disruption of territorial integrity of India and is such activity an unlawful activity under clause (f) of Section 2 of the Act, is the issue. It is raised having regard to the latter part of ground (i) given in the Notification in support of the declaration therein. Exhibit P-15 is July 1988 issue of ‘Sampark’ magazine. In that issue a letter written in Punjabi by Sri Gajinder Singh, a member of Dal Khalsa from the Central Jail, Lahore in Pakistan, to Smt. Kanwaljit Kaur, his sister, is published and it is at Exhibit P-15A. The English Translation of that letter is Exhibit P-15A (ET). P.W. 5, Sri Ved Parkash Kapoor, working as Superintendent in Counter Terrorism Branch at Chandigarh, has produced them before the Tribunal and has spoken to their contents. Annexure-III sent enclosed with Exhibit P-27, the Resume relating to Dal Khalsa along with the Notification under adjudication, to the Tribunal, consists of photo copies of Exhibits P-15A and P-15A(ET), which, according to P.W. 8, Sri Ashok Bhatia, formed also the basis for the issuance of the Notification under adjudication. Need of continuance of movements for national independence in coming years and the co-operation wanted from all sources for the purpose is the theme of the letter, as seen from Exhibit P-15A(ET). That ‘Dal Khalsa’ is determined and committed to the struggle for Khalistan, as could be seen from Exhibit P-15A(ET). Thus, it becomes clear that Dal Khalsa, through its activist—Sri Gajinder Singh, has been preaching secession and disruption of territorial integrity of India. Such preaching of secession and disruption of territorial integrity of India for the creation of Khalistan constitutes an unlawful activity under clause (f) of Section 2 of the Act in relation to the association of which such activist is a member. Hence, the Tribunal records its finding on the issue in the affirmative and to the effect that Dal Khalsa—the respondent has been, through its activist, preaching secession and disruption of territorial integrity of India and such activity is an unlawful activity under clause (f) of Section 2 of the Act.

Re. Issue No. 3 :

This issue, which is referable to ground (iii) given in support of the declaration in the Notification relates to the extension by Dal Khalsa—the respondent, of support to the creation of Khalistan through its office bearers and activists by activities—(a) of stressing the need for unity between Sikh militant groups fighting for Khalistan; (b) of stepping up pro-Khalistan propaganda through foreign press and Gurdwara platforms; and (c) of warning against negotiations with the Government of India, such

activities being 'unlawful activity' under clause (f) of Section 2 of the Act. As spoken to by P.W. 8, Sri Ashok Bhatia, the first document of Annexure-V of the Resume (Exhibit P-27) is the photo copy of Exhibit P-22A and the second document of Annexure-V thereof is the photo copy of Exhibit P-22A(ET). Exhibit P-22A and Exhibit P-22A(ET) are those spoken of by P.W. 6, Sri Chamanlal, Dy. S.P., C.I.D., Kapoorthala. Exhibit P-22A, which is in Punjabi, finds its place in Awaz-e-Qaum, Issue No. 114, 15th September 1988, the Magazine, Exhibit P-22. Its English Translation is Exhibit P-22A(ET). As seen therefrom, it is an open invitation to all Sikhs, who are interested in the establishment of 'Sikh Raj'—Khalistan to attend the annual convention of the International Sikh Youth Federation (U.K.) proposed to be held on the 18th September 1988 at Gurunanak Sikh Temple, Sajeli Street, Woolwarhampton, telling them that the convention should be attended by all militant brothers and sisters engaged in the Panthik struggle and also representatives of various organisations. The object of the convention, as stated in Exhibit P-22A(ET) is to afford to all those Sikhs, who want to express their views on the establishment of 'Sikh-Raj' Khalistan, to express such views and to listen to the views of other Sikh brothers or sisters in the matter. Exhibit P-22A, as revealed from Exhibit P-22A(ET), contains an appeal that the Sikhs shall strive together and help those brothers and sisters who are in the struggle or have sacrificed their lives, so that "Halemi Raj, Khalsa Raj-Khalistan is established". The names given of Panthic organisations, which would be participating in the convention, are, according to P.W. 7, Sri Chaman Lal, those associated with Dal Khalsa and the members of those organisations are activists of Dal Khalsa. Thus, the convention proposed to be had is intended for the unity among all Sikh organisations fighting for Khalistan Raj and boost up pro-Khalistan propaganda through the foreign press and from Gurdwara platforms.

Annexure-VI Exhibit P-27, the Resume, is one of the documents said to have weighed with the Central Government in making the declaration as contained in Exhibit P-25 as spoken of by P.W.8, Sri Ashok Bhatia. Annexure-VI is the photo copy of Exhibit P-16A spoken of by P.W.5, Sri Ved Parkash Kapoor. Exhibit P-16A finds its place in the 16th September, 1988 Issue of London Based Punjabi Fortnightly 'Desh Pardesh'. Exhibit P-16. It contains a homage paid to General Zia-Ul-Haq, the President of Pakistan, who died in an air crash. The said President is praised for opening the doors of Pakistan for Sikhs from all over the world including India. The homage is said to have been paid on behalf of 'Sikh Nation'. This action is of Dal Khalsa International which according to P.W.5, Sri Ved Parkash Kapoor, is an unit of Dal Khalsa, and is intended to step up pro-Khalistan propaganda.

Annexure-VII of Exhibit P-27, the Resume, is one of the documents said to have been weighed with the Central Government in making the declaration as contained in Exhibit P-25 as spoken of by P.W.8, Sri Ashok Bhatia. The Magazine, Awaz-e-Qaum, Issue No. 123, 17th November, 1988 is Exhibit P-17. The first document of Annexure-VII is the photo copy of

Exhibit P-17A, an article published in Exhibit P-17 in Punjabi. The English Translation of that article with heading 'Sikh Movement and the Third Party' is Exhibit P-17A(ET). The second document of that Annexure is a photo copy of Exhibit P-17A(ET). P.W.5, Sri Ved Parkash Kapoor, speaks of the article in Punjabi (Exhibit P-17A) and its English Translation at Exhibit P-17(ET). Exhibit P-17A(ET) reveals that article is written by Sri Gajinder Singh of Dal Khalsa who is in the Central Jail at Lahore in Pakistan. That letter make a forceful appeal to all Sikh militant groups in India and abroad (foreign countries) to strive for attainment of Khalistan by supplementing each other's efforts in the prolonged united struggle.

The first document of Annexure-VIII of Exhibit P-27, the Resume, is the photo copy of Exhibit P-5 and the second document thereof is the photo copy of Exhibit P-5(ET), as spoken of by P.W.8, Sri Ashok Bhatia, which, according to him, has weighed with the Central Government in making the declaration in the Notification, Exhibit P-25.

Annexure-IX of Exhibit P-27, the Resume, is the photo copy of Exhibit P-6 as spoken of by P.W.8, Sri Ashok Bhatia, which has also formed the basis for issuance of the Notification, Exhibit P-25. Exhibit P-6, as stated by P.W.3, Sri Harbans Singh is a Press Note issued by Nidhan Singh, Major General of Punjab Armed Forces—the Unit of 'Dal Khalsa' in the letter-head of Gajinder Singh, Chairman, 'Dal Khalsa' with the insignia of 'Dal Khalsa'.

As seen from Exhibit P-5(ET), Exhibit P-6, the Press Release of Nidhan Singh, contains a warning to Sri Jasbir Singh Rode that he should not sign any agreement with the Central Government except for Khalistan since the Centre had always acted against the interest of Punjab and that Singh Sahiban should not believe that Government. And Khalistan Organisation had identified the persons who wrote letters from the Darbar Sahib Complex to the people for collecting money and some Dal Khalsa militants had been deputed to eliminate such traitors since they were a blot on the name of the Panth.

As the said acts of the Office bearers of Dal Khalsa and other activist being activities intended to disrupt the sovereignty of territorial integrity of India and support the secession of a part of the territory of India from Union and promote on grounds of religion, disharmony or feelings of enmity hatred between different religions, are acts prejudicial to the maintenance of harmony between different religions, they are to be regarded as 'unlawful activity' of the Dal Khalsa—the respondent under clause (f) of Section 2 of the Act.

Hence, the Tribunal records its finding on the issue in the affirmative.

Re. Issue No. 4

This issue is raised having regard to ground (ii) in the Notification supporting the declaration made therein. That ground is to the effect that Dal

Khalsa—the respondent, has formed an Action Committee of Pro-Khalistan Sikh Militant Group to kill Police Officers and their informers. This ground, as seen from the evidence of P.W.8, Sri Ashok Bhatia, is based on the information furnished under Annexure-X. Annexure-X comprises of Exhibit P-1 written in Punjabi by one Sri Bhajan Singh, Dy. Superintendent of Police C.I.D., Patiala, and sent to the Superintendent of Police, Jalandhar (Intelligence), Punjab-Chandigarh. Exhibit P-1(ET) is its English Translation. P.W.1, Sri Bhajan Singh, the author of Exhibit P-1 speaks of Exhibit P-1 and Exhibit P-1(ET). It is said by him that from an intelligence source, he came to know that an Action Committee was being formed by Pro-Khalistan Militant Groups, such as, Khalistan Liberation Force, Khalistan Liberation Organisation, Babbar Khalsa Dal Khalsa with the object of killing those persons who were collecting money from public using threats in the name of militant organisations and another Committee was being formed to kill Police officers working against Sikhs and harassing Amrit Dharis (activists group of militants in Dal Khalsa Organisation). His further information was that the Action Committee proposed to be formed would consist of Atinder Pal Singh Bopal, Sukhdev Singh and Balbir Singh, the last mentioned person belonging to Dal Khalsa. All the said information being put in Exhibit P-1, it was sent to the higher ups for action. Its English Translation is at Exhibit P-1(ET). As the Action Committee to be formed was intended to kill Police officers and their informers, it is intended to bring about violence and disturb public tranquility, which would amount to an unlawful activity under clause (F) of Section 2 of the Act.

Hence, the Tribunal records its finding on the issue in the affirmative.

Re. Issue No. 5 :

This issue refers to activities of the activists of the respondent-Dal Khalsa relating to (a) holding of demonstrations in which slogans like, 'India Quit 'Khalistan' were raised; (b) holding of meetings for providing more financial aid to Sikh militants fighting for Khalistan in Punjab—such activities being unlawful activities under clause (f) of Section 2 of the Act. This issue is raised having regard to ground (iv) given in the Notification (Exhibit P-25) supporting the declaration made therein.

According to P.W.8, Sri Ashok Bhatia, Annexures-XI, XII, XIII, XIV, XV, XVI, XVII and XVIII, photo copies annexed to Exhibit P-27, the Resume respecting Dal Khalsa—the respondent, sent to the Tribunal along with the Notification to enable it to find whether the materials therein support declaration in the Notification are the documents relied upon by the Central Government to make the declaration in Exhibit P-25. As spoken to by him, the first document of Annexure-XII is the photo copy of Exhibit P-18A and the second document of that Annexure is the photo copy of Exhibit P-18A(ET); the first document of Annexure-XIII is the photo copy of Exhibit P-7 and the second document of that Annexure is Exhibit P-7(ET); the first document of

Annexure-XII is the photocopy of Exhibit P-9 and the second document of that Annexure is Exhibit P-9(ET); Annexure XIV is the photo copy of Exhibit P-24; the first document of Annexure-XV is the photo copy of Exhibit P-21 and the second document of that Annexure is Exhibit P-21(ET); the first document of Annexure-XVI is the photo copy of Exhibit P-20A and the second document of that Annexure is Exhibit P-20A(ET); the first document of Annexure-XVII is the photo copy of Exhibit P-10 and the second document of that Annexure is Exhibit P-10(ET), and the first document of Annexure-XVIII is the photo copy of Exhibit P-12 and the second document of that Annexure is Exhibit P-12(ET).

P.W.5, Sri Ved Parkash Kapoor, Superintendent in Counter Terrorism Branch at Chandigarh has spoken about 'Des Pardes' Weekly Issue of London Base dated 16th December, 1988 (Exhibit P-18). Exhibit P-18A is a News Item in that Magazine respecting which he has spoken. The English Translation of that News Item, as spoken to by him, is Exhibit P-18A(ET). As seen from Exhibit P-18A(ET) at least 70 persons belonging to different Sikh Organisations, apparently the leaders of Babbar Khalsa International, Dal Khalsa international national Sikh Youth Federation (Dammaji Taksal) jointly staged a demonstration in front of the Indian High Commission at London on 1st December regarding death penalty awarded to Satwant Singh and Kehar Singh. Demonstrators, it is said, included Dr. Jagjit Singh Babbar, Gurraj Singh, S. Manmohan Singh, S. Joginder Singh Bal, S. Amrik Singh Sahota and S. Sewa Singh Lali. Babbar Khalsa International it is said, submitted a petition in the office of the Prime Minister Mrs. Margaret Thatcher protesting against the death penalty awarded to Satwant Singh and Kehar Singh. Satwant Singh and Kehar Singh it is said, were the symbols of self respect of Sikhs and the decision of the Government to hang them would be injurious to the self-respect of Sikhs. It is also said that in the event of Satwant Singh and Kehar Singh being hanged, it must be treated as yet another challenge of the Central Government to the self-respect of Sikhs and the people of Punjab shall observe total Bundh, the students should boycott their classes in educational institutions and organise Rallies, jam the wheels of the vehicles and the farmers should stop working in their fields for three days. The Vice-President of the Khalistan Government-in-exile, Sri Sewa Singh Lali, it is said, had issued a Press statement that hanging would add fuel to the fire in which the Government would get itself burnt to ashes. The Chairman of the Panthic Committee, it is said, while talking to the Editor of 'Des Pardes' that the Government of India if hang Satwant Singh and Kehar Singh, the Sikhs would pay in the same coin to the Hindu Quom as the other Quoms do and Hindus should not consider themselves safe after killing 3000 Sikhs putting 'bushy tyres' round their necks, molesting the Sikh women and ruining and destroying the heritage and shrines of the Sikhs.

P.W.3, Sri Harbans Singh, speaks of Exhibit P-7, letter dated 11-2-1989, written by him to the D.I.G., (Intelligence), Chandigarh, and its English Translation, Exhibit P-7(ET), and also to the Press Note

published as a News Item in 'Punjabi Guardian' of Fortnightly Magazine Issue No. 43, 1-15th February, 1989 relating to the protest march of January 22, 1989, organised in front of the Indian High Commission, London, and its English Translation Exhibit P-9(ET). As seen therefrom, demonstrators are said to have raised Pro-Khalistan slogans and carried Banners including 'India Quit Khalistan' and 'Satwant Singh's last will Khalistan,' etc.

Then, as seen from Exhibit P-7(ET), Exhibit F-7 is said to have contained the statement that there is not a single family in Punjab which has not directly or indirectly been subjected to Government's torture and if all Sikh families living in foreign countries resolve to contribute their one day's expenditure only to the Khalistan struggle, then surely Khalistan can be achieved. There is also a statement to the effect that all factions of Sikhs should sink their differences and wage a struggle against the Government. It is also said that Muslim Organisations have also participated in the protest demonstrations.

Exhibit P-9, a News Item in U.K. Base 'Punjabi Guardian', relates to the efforts done for Panthic Unity. Exhibit P-9(ET) is the English Translation of Exhibit P-9. There is a reference there, to the protest demonstration held on Sunday morning of January 22 in the Hyde Park, London, to protest against the death sentence executed against Satwant Singh and Kehar Singh. The banner of Khalistan appears to have found a place on the dias. There is a reference to Dal Khalsa leaders being present in demonstration. It is said that Indian Government cannot crush the Sikhs. There is an appeal to the Muslims of the occupied Kashmir that they should extend their help to the Sikhs in Punjab, so that Sikhs may build their home. The slogans of 'Rajiv Murdabad' are said to have been raised.

P.W. 7, Sri Raghbir Singh, who is the author of the letter, Exhibit P-24, speaks of it. What is stated in the letter is said to be the information he received from a secret source. It refers to a meeting held at Gurdwara at Slough Suburb of London (U.K.) on April 17, 1989. That meeting is said to have been attended by self-styled Ministers of the so-called Government in-exile of the National Council of Khalistan and Dal Khalsa. It refers to the decision taken in that meeting to collect more and more funds for Sikh militants for rendering adequate financial aid to Sikh militant organisations fighting for the cause of Khalistan in Punjab with their base in Pakistan for purchasing arms and ammunition. It also refers to a decision taken to give more financial aid to the families of those Sikh militants who had either been killed or arrested by Police in India. There is a reference to the shelter given by Pakistan for Sikh militants to carry on their extremist activities for the cause of Khalistan. Dr Chauhan is said to have supported the launching of a propaganda campaign among the Sikh immigrants in U. K., U.S.A., Canada and other foreign countries in support of the demand for Khalistan and through them, among their relatives in Punjab that Khalistan when formed, will be natural ally of Pakistan. The decisions taken at the meeting, as seen therefrom, are :

- (i) To send messages to Sikh militants in Punjab not to give up the demand for Khalistan and pay head to the anti-Khalistan propaganda by Indian Government Agencies;
- (ii) To assure the Pak Govt. high-ups through the Sikh militant leaders settled in that country that 'Khalistan would be a natural ally of Pakistan';
- (iii) To gear up pro-Khalistan propaganda in and out-side India to impress upon the Government of India that nothing short of an independent Sikh Home land called Khalistan is acceptable to the Sikhs;
- (iv) To make it clear to the Pak Govt. through the agency of the Sikh militant leaders taking refuge in that country that the Sikhs had never claimed any Pak area nor they would do so in future. The Sikhs would never claim any river water flowing in Pakistan. But, the Sikhs would not allow India to divert flow of river water of Khalistan towards India;
- (v) To send messages to Sikh Militants to eliminate anti-Sikh functionaries and Agents of the Indian Govt. to pave way for the creation of Khalistan."

Exhibits P-21 and P-21 (ET) are spoken to by P.W. 6, Sri Chaman Lal. The first is that letter in Punjabi sent to the Superintendent of Police, Punjab, Chandigarh, along with the Magazine "Awaze-Qaum" Issue No. 149. That letter's English Translation is Exhibit P-21 (ET).. Exhibit P-20A is an open letter in Punjabi published in the Magazine. Its English Translation is Exhibit P-20A (ET). Exhibit P-20A (ET) refers to the call of the hour than an organised set up was to be establish in the shape of a political force, under which the Khalistan organisations should work unitedly. It sets to the organisational set up giving representations to various Khalistani groups and others. It ends by stating that the Sikhs should stride forward for the high spirits of the Quom and be committed to the declaration made by the Sant Jarnail Singh Khalsaji.

P.W.3, Sri Harbans Singh, who sent his letter dated 4-10-1989 to D.I.G., (Intelligence-D), speaks of it as Exhibit P-10. He speaks of its English Translation as being Exhibit P-10(ET). It refers to a recorded message of Panthic Committee that was played at the convention held by the International Sikh Youth Federation (U.K.) on September 17, 1989, at Gurdwara Shri Guru Singh Sabha South Hall, U.K. There is a reference to the appeal made to Sikhs in the convention to help generously the militants fighting in the battle field. It refers to the statement of Dr. Pragath Singh made in the convention as being "The war with the Delhi throne will continue till the achievement of Khalistan and the oppression will be fought bravely". The anti Sikh forces are creating hurdles in the way but ultimately Khalsa Panth will rule the Punjab. The ideology of the Akalies has weakened. Any person demanding less than Khalistan cannot be the leader of the Sikhs. The

activities of the Federation in Punjab have greatly worried the Indian Government. It is our duty to do our best in helping the militant youths, fighting in the battlefield, so that the flag of the Panth be always hoisting Unity which is very essential to achieve this end". Similar declarations said to have been made in the convention on September 17, 1989, are stated in that letter thus :

- "1. The congregation at the fifth annual convention of the International Sikh Youth Federation being held at Sri Guru Singh Sabha Havlock Road, South Hall express is happiness over the release of Bhai Manjit Singh and it appreciates Bhai Manjit Singh's statement about continuing the fight for the achievements of the goal set by Sant Jarnail Singh Bhindrawala i.e. the achievement of Khalistan.
2. This gathering appreciates the services of Bhai Daljit Singh for the Panth and requests A.I.S.S.F. President Bhai Manjit Singh and convener Bhai Daljit Singh that both the leaders by extending full co-operation to each other should take the Sikh youth in confidence and intensify the Sikh struggle for the achievement of Khalistan.
3. Today's gathering fully appreciates the Panthic services of Sikh youths confined in foreign person and is committed to help their families in every way.
4. Today's gathering pays its homage to the martyred Sikhs struggling for Khalistan and it is committed to provide full co-operation to all the organisations fighting for Khalistan;
5. Today's gathering appreciates the feelings of those foreign governments or their representatives, who have criticised the Indian government for oppressing the Sikhs."

Exhibit P-12 and Exhibit P-12(ET) are spoken to by P.W.3, Sri Harbans Singh. Exhibit P-12 contains the Panthic Committee's directives. It is in Punjabi. Its English Translation is Exhibit P-12(ET). From Exhibit P-12, it is seen that four prominent organisations struggling for Khalistan, namely, Khalistan Commando Force, Babbar Khalsa International, All India Sikh Student Federation, Khalistan Liberation Force and Panthic Committee elected by them, have formed a panel with the elected members and they have appealed to the congregations that if they want to help the militants, they should send their aids through the newly elected panel only. It is ultimately stated that the militant Sikhs should be extended maximum monetary help for earning the blessing of the Guru.

From the said activities of the activists of Dal Khalsa, a few of whom are its office bearers and/or members, it becomes clear that they have been promoting feelings of enmity and hatred between Sikhs and Hindus in India in their endeavour to create

Khalistan State, independent of India and as ally of Pakistan. The said activities, which are to be regarded as activity of Dal Khalsa within the meaning of clause (f) of Section 2 of the Act, makes Dal Khalsa an Unlawful Association under clause (g) of Section 2 of the Act inasmuch as the activities are punishable under Section 153-B of the I.P.C.

Hence, the Tribunal records its finding on this issue, as well, in the affirmative

Re. Issue No. 6 :

The findings on Issue Nos. 2 to 5 being recorded in the affirmative by the Tribunal, it follows that Dal Khalsa—the respondent, is an Unlawful Association under clause (g) of Section 2 of the Act. Hence, a finding on this issue is recorded in the affirmative.

Re. Issue No. 7 :

The very material forming the grounds for the declaration made by the Central Government that the respondent—Dal Khalsa was an Unlawful Association, by issue of the Notification under adjudication, is produced as documentary evidence at the enquiry held by the Tribunal, to adjudicate whether the declaration so made calls to be confirmed or rejected. The material so produced by the Central Government—the petitioner, by way of documentary evidence, which remained unrebutted by Dal Khalsa—the respondent or any person on its behalf, being found sufficient to support the issues raised with reference to grounds furnished in the Notification, such issues are answered in the affirmative by the Tribunal and findings thereon are recorded accordingly. Thus, when, on the findings recorded on Issue Nos. 2 to 6, Dal-Khalsa—the respondent is an Unlawful Association under clause (g) of Section 2 of the Act, it must follow as a consequence thereof that there was sufficient cause for the Central Government to declare Dal-Khalsa—the respondent as an 'Unlawful Association' by issuing the Notification under adjudication in exercise of its powers under sub-section (1) of Section 3 of the Act and that Notification calls confirmation by the Tribunal under sub-section (3) of Section 4 of the Act. Therefore, the Tribunal records its findings on Issue No. 7 in the affirmative.

8. In the result, the Tribunal holds that there was sufficient cause for the Central Government to declare Dal-Khalsa as an Unlawful Association by Notification No. S.O. 399(E) dated 22nd May, 1990 published in the Gazette of India Extraordinary of the same date under sub-section (1) of Section 3 of the Act, and makes this order under sub-section (3) of Section 4 of the Act confirming the declaration in that Notification.

[F. No. I-17017/40/90-IS/II.VII]

[F. No. I-17017/40/90-IS/D.VII]

H. M. CAIRAE, Dy. Secy.